

IN THE SUPREME COURT  
OF THE STATE OF MONTANA

IN RE THE MATTER OF THE ACTIVITIES )  
OF THE DEPARTMENT OF NATURAL RESOURCES )  
AND CONSERVATION )

**WATER COURT COMMENTS  
ON MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS' COMMENTS  
AND OBJECTIONS TO THE WATER COURT'S FINAL PROPOSED WATER RIGHTS  
ADJUDICATION RULES  
(Re: Section III – The Unresolved Practice of Law Issue)**

C. BRUCE LOBLE  
Chief Water Judge  
Montana Water Court  
PO Box 1389  
Bozeman MT 59771-1389

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SOURCE AND CONSERVATION

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**WATER COURT COMMENTS ON DFWP'S COMMENTS**  
**Re: Section III - the Unresolved Practice of Law Issue**

On behalf of the Montana Water Court, the chief water judge responds briefly to the Department of Fish, Wildlife and Parks' June 12, 2006 Comments and Objections to the Water Court's Final Proposed Water Rights Adjudication Rules.

Although the Supreme Court has not requested comments to be filed to the Water Court's May 26, 2006 Second Amended Petition to Revise Water Right Claim Examination Rules, or for comments to comments to be filed, the Water Court respectfully requests the Court to accept this brief submission addressing Section III of the DFWP's Objections and Comments. Section III of DFWP's three pound filing is entitled "The Unresolved Practice of Law Issue" in the Water Court.

In 1992, the Water Court voiced similar concerns to the Supreme Court about this same issue and requested direction from the Supreme Court about the historical and prospective use of lay representation before the Water Court. At the request of the Supreme Court, and following consultation with the then current water judges, the Water Court mailed proposed rules on lay representation to the members of the Supreme Court on March 5, 1993.

By letter dated November 2, 1993, Chief Justice J. A. Turnage advised the Water Court that the members of the Supreme Court preferred the Water Court to allow lay representation as a discretionary matter. A copy of Chief Justice Turnage's letter is attached as Exhibit A.

If the Supreme Court would like copies of the 1992-1993 lay representation documents discussed herein, or would like the Water Court to provide a more extensive response to DFWP's recently filed Comments and Objections, the Water Court will, of course, promptly comply with the Court's request.

### **CONCLUSION**

As noted in the Water Court's 1992 submission to the Court, the procedures established by Chief Water Judge W. W. Lessley and the early water judges were informal and "user friendly." Lay representation was part of those procedures. I urge the Court to continue to authorize its use.

Respectfully submitted this 21st day of June, 2006.

/s/ C. Bruce Loble  
C. Bruce Loble  
Chief Water Judge

## **CERTIFICATE OF COMPLIANCE**

I certify that the WATER COURT COMMENTS ON MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS' COMMENTS AND OBJECTION TO THE WATER COURT' FINAL PROPOSED WATER RIGHTS ADJUDICATION RULES (RE: SECTION III – THE UNRESOLVED PRACTICE OF LAW ISSUE) are in compliance with Rule 27 of the Montana Rules of Appellate Procedure, as follows:

1. The Water Court Comments are double spaced and printed with a proportionately spaced font of 14 point typeface;
2. The Water Court Comments contain 357 words, excluding tables, certificate of service, certificate of compliance, and appendices.

DATED this 21<sup>st</sup> day of June, 2006.

/s/ C. Bruce Loble  
C. Bruce Loble  
Chief Water Judge

## **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the WATER COURT COMMENTS ON MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS' COMMENTS AND OBJECTION TO THE WATER COURT' FINAL PROPOSED WATER RIGHTS ADJUDICATION RULES (RE: SECTION III – THE UNRESOLVED PRACTICE OF LAW ISSUE) were duly served upon the persons listed below by depositing the same, postage prepaid, in the United States mail.

TIM D. HALL  
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In addition, this document has been electronically transmitted to the State Law Library for posting on the Water Court website. Notice of the posting has been provided by e-mail or U. S. Mail to members of the Water Adjudication Advisory Committee, Environmental Quality Council staff, water user groups, and other persons known to be interested in the proposed rules.

DATED this 21st day of June, 2006.

/s/ C. Bruce Loble  
C. Bruce Loble  
Chief Water Judge

THE SUPREME COURT OF MONTANA

J.A. TURNAGE  
CHIEF JUSTICE



JUSTICE BUILDING  
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HELENA, MONTANA 59620-3001  
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November 2, 1993

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Honorable C. Bruce Loble  
Chief Water Judge  
P. O. Box 879  
Bozeman, MT 59771-0879

Montana Water Court

Dear Chief Water Judge Loble:

In an effort to avoid any further delay in your request to the Court concerning lay representation before the Water Court, we have had this on our conference agenda since your letter was received on March 8, 1993.

It is my understanding that the Conference, at least at this time, believes that you, as Chief Water Judge, and with the consent you apparently have already obtained from the other Water Judges, are in a position to allow lay representation as a discretionary matter.

Unless you believe it is necessary that some formal rule be adopted, the Court would prefer that you proceed to handle the matter as apparently is now being done.

If you want to visit about this matter with the Court, please let me know and we will arrange for you to come to one of our conferences.

With best regards, I remain

Sincerely,

A handwritten signature in dark ink, appearing to read "J. A. Turnage", is written over a large, stylized star-shaped graphic.  
J. A. Turnage  
Chief Justice

JAT:rap

c: All Justices

